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SENATE BILL 163

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO PUBLIC EMPLOYEES; PROVIDING FOR AN INVESTMENT-
PERFORMANCE-BASED FRAMEWORK FOR THE COMPENSATION OF PUBLIC
EMPLOYEES RETIREMENT ASSOCIATION AND EDUCATIONAL RETIREMENT
BOARD INVESTMENT STAFF; EXEMPTING THOSE AGENCIES' INVESTMENT
STAFF POSITIONS FROM THE PERSONNEL ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public Employees
Retirement Act is enacted to read:

"[NEW MATERIAL] INVESTMENT STAFF--INVESTMENT-PERFORMANCE-
BASED COMPENSATION--REPORTING.--

A. Each year, the retirement board, in consultation
with the executive director of the association, shall establish
a framework for the compensation of the association's chief
investment officer and other investment staff that:

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- 1 (1) includes, for each of those positions:
2 (a) a base compensation component; and
3 (b) a variable, investment-performance-
4 based component aligned with investment industry norms and best
5 practices; and

6 (2) applies to the following fiscal year.

7 B. The association's chief investment officer and
8 other investment staff shall receive compensation in accordance
9 with the framework developed by the retirement board.

10 C. Each year, the executive director of the
11 association shall report to the legislative finance committee
12 and, as appropriate, to one or more other legislative interim
13 committees, on the compensation framework established in
14 accordance with Subsection A of this section."

15 SECTION 2. A new section of the Educational Retirement
16 Act is enacted to read:

17 "[NEW MATERIAL] INVESTMENT STAFF--INVESTMENT-PERFORMANCE-
18 BASED COMPENSATION--REPORTING.--

19 A. Each year, the board, in consultation with the
20 director, shall establish a framework for the compensation of
21 the board's chief investment officer and other investment staff
22 that:

- 23 (1) includes, for each of those positions:
24 (a) a base compensation component; and
25 (b) a variable, investment-performance-

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1 based component aligned with investment industry norms and best
2 practices; and

3 (2) applies to the following fiscal year.

4 B. The board's chief investment officer and other
5 investment staff shall receive compensation in accordance with
6 the framework developed by the board.

7 C. Each year, the director shall report to the
8 legislative finance committee and, as appropriate, to one or
9 more other legislative interim committees, on the compensation
10 framework established in accordance with Subsection A of this
11 section."

12 SECTION 3. Section 10-9-4 NMSA 1978 (being Laws 1961,
13 Chapter 240, Section 4, as amended) is amended to read:

14 "10-9-4. COVERAGE OF SERVICE.--The Personnel Act and the
15 service cover all state positions except:

16 A. officials elected by popular vote or appointed
17 to fill vacancies to elective offices;

18 B. members of boards and commissions and heads of
19 agencies appointed by the governor;

20 C. heads of agencies appointed by boards or
21 commissions;

22 D. directors of department divisions;

23 E. those in educational institutions and in public
24 schools;

25 F. those who are employed by state institutions and

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1 by state agencies providing educational programs and who are
2 required to hold valid certificates as certified school
3 instructors, as defined in Section 22-1-2 NMSA 1978, issued by
4 the public education department;

5 G. those in the governor's office;

6 H. those in the state militia or the commissioned
7 officers of the New Mexico state police division of the
8 department of public safety;

9 I. those in the judicial branch of government;

10 J. those in the public defender department, upon
11 implementation of personnel policies and rules by the public
12 defender commission;

13 K. those in the legislative branch of government;

14 L. ~~[not more than]~~ up to two assistants and one
15 secretary in the office of each official listed in Subsections
16 A [B] and C of this section ~~[excluding members of boards and~~
17 ~~commissions in Subsection B of this section]~~ and in the office
18 of each head of an agency appointed by the governor;

19 M. those of a professional or scientific nature and
20 that are temporary ~~[in nature];~~

21 N. those filled by patients or inmates in
22 charitable, penal or correctional institutions;

23 O. state employees if the board in its discretion
24 decides that the position is one of policymaking; ~~and]~~

25 P. disadvantaged youth under twenty-two years of

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1 age who are regularly enrolled or to be enrolled in a secondary
2 educational institution approved by the public education
3 department or in an accredited state institution of advanced
4 learning or vocational training and who are to be employed for
5 not more than seven hundred twenty hours during any calendar
6 year:

7 (1) the term "disadvantaged youth" shall be
8 defined for purposes of this exemption by regulation duly
9 promulgated by the board; and

10 (2) the board shall:

11 (a) require that all the criteria of
12 this subsection have been met;

13 (b) establish employment lists for the
14 certification of the highest-standing candidates to the
15 prospective employers; and

16 (c) establish the pay rates for such
17 employees;

18 Q. the chief investment officer of the public
19 employees retirement association and those subject to the
20 investment-performance-based compensation framework provided
21 for by Section 1 of this 2018 act; and

22 R. the chief investment officer of the educational
23 retirement board and those subject to the investment-
24 performance-based compensation framework provided for by
25 Section 2 of this 2018 act."

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1 SECTION 4. Section 10-9-5 NMSA 1978 (being Laws 1978,
2 Chapter 96, Section 1, as amended) is amended to read:

3 "10-9-5. PUBLIC OFFICERS AND PUBLIC EMPLOYEES--EXECUTIVE
4 BRANCH--ANNUAL EXEMPT SALARIES PLAN.--

5 A. The department of finance and administration
6 shall prepare, by December 1 of each year, an exempt salaries
7 plan for the governor's approval [~~The plan shall specify~~] that
8 specifies salary ranges for the following public officer and
9 public employee positions of the executive branch of
10 government:

- 11 (1) members of boards and commissions
12 appointed by the governor;
- 13 (2) heads of agencies or departments appointed
14 by the governor;
- 15 (3) heads of agencies or departments appointed
16 by the respective boards and commissions of the agencies;
- 17 (4) directors of department divisions;
- 18 (5) employees in the governor's office;
- 19 (6) positions in the state militia and the
20 commissioned officers of the New Mexico state police division
21 of the department of public safety;
- 22 (7) assistants and secretaries in the offices
23 of each official covered by Paragraphs (2) and (3) [~~and (10)~~]
24 of this subsection;
- 25 (8) temporary positions of a professional or

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1 scientific nature [~~which are temporary in nature~~]; and

2 (9) state employees whose positions the
3 [~~personnel~~] board has classified as [~~policy-making~~]
4 policymaking positions and exempt employees of elective public
5 officials [~~and~~

6 (~~10) secretaries of departments appointed by~~
7 ~~the governor~~].

8 B. Excluded from the provisions of this section
9 are:

10 (1) employees of the [~~commission on~~] higher
11 education [~~and~~] department;

12 (2) employees of state educational
13 institutions named in Article 12, Section 11 of the
14 constitution of New Mexico;

15 (3) the chief investment officer of the public
16 employees retirement association and those subject to the
17 investment-performance-based compensation framework provided
18 for by Section 1 of this 2018 act; and

19 (4) the chief investment officer of the
20 educational retirement board and those subject to the
21 investment-performance-based compensation framework provided
22 for by Section 2 of this 2018 act.

23 C. The exempt salaries plan for the ensuing fiscal
24 year, as prepared by the department of finance and
25 administration and approved by the governor, shall be published

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1 as a part of the executive budget document presented to the
2 legislature at its next regular session following the
3 preparation of the plan.

4 D. Upon the governor's approval, the plan shall
5 take effect at the beginning of the subsequent fiscal year."

6 SECTION 5. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2019.